

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
EASTERN DIVISION

CIVIL ACTION NO. 04-11934-GAO

NOAH GREENBERG)
Plaintiff)
)
v.)
)
TOWN OF FALMOUTH,)
AND GANNETT)
FLEMING, INC.,)
Defendants)

**DEFENDANT GANNETT FLEMING'S PRE-TRIAL
DISCLOSURES UNDER RULE 26(a)(3)**

Now comes defendant and cross-plaintiff Gannett Fleming Engineers and Architects, PC ("Gannett" or "GF"), through its counsel of record, and hereby provides the following pre-trial disclosures pursuant to F.R.C.P. 26(a)(3).

(A) Witnesses That Gannett Intends to Call:

- Jeffrey Alberti, Weston & Sampson Engineers, Inc., 100 Foxboro Blvd., Suite 250, Foxboro, MA 02035.
- Donald Nicholas, Gannett Fleming, 150 Wood Road, Suite 400, Braintree, MA 01284.
- Plaintiff Noah Greenberg, 22 Bee Bee Acres Road, Falmouth, MA 02540 (or through plaintiff's counsel).
- William Owen, Town of Falmouth, Town Hall Square, Falmouth, MA 02540 (or through Falmouth's counsel)

(B) Witnesses That Gannett May Call:

- Michael Haire, Gannett Fleming, 150 Wood Road, Suite 400, Braintree, MA 01284.
- Heather Harper, Town of Falmouth, Town Hall Square, Falmouth, MA 02540 (or through Falmouth's counsel).
- Frank Duffy, Esq., 157 Locust Street, Falmouth, MA 02541 (or through Falmouth's counsel).

Gannett also reserves its right to call any witness listed or called by the other parties in this case, or to call any rebuttal witnesses.

(C) Witnesses Presented by Deposition:

Gannett does not intend to present any witnesses solely by their deposition testimony, although Gannett reserves its right to introduce deposition testimony during trial from any of the three witnesses deposed in this case (plaintiff Greenberg, Jeffrey Alberti, and William Owen).

(D) Identification of Documents and Exhibits:

EXHIBIT NO.	DATE	DESCRIPTION
1	2/24/03	Frontal, lateral, visual view of front part of project, showing offices and second floor [GF043, GF079-83]
2	6/21/2002	Page of the Falmouth project submission request proposal from Alberti, on subject job [GF728].
3	Undated	Site plan of back of site [GF015 or GF038].
4	2/11/2003	Macroview of site, front and back [GF364-55].
5	3/31/2003	Cover-fax memo re floor plan that the town has approved as the final plan [GF069-70 or GF071-72].
6 *	2/17/2003	Memo from Paul Smith to John Masland.
7 *	Many	Documents concerning the soil borings. [GF313-388, 420].
8	2/1/1994	Letter from Town (Owen) to Greenberg/RCG.
9 *	6/7/2002	Letter from plaintiff's counsel to Gannett [GF510].
10	8/5/1994	Letter from Greenberg to Town (Owen).
11 *	8/24/2004	Greenberg's notes re DPW job.
12 *	8/24/1994	Meeting minutes by Greenberg.
13	1994 1998	Greenberg's preliminary plans [GF254-257].
14	12/6/1993	Letter from Robert Charles Group (Greenberg) to Falmouth (Owen) submitting Greenberg's proposal [GF580].
15	8/26/1998	Invoice from Greenberg to Town (Owen) for "completion of preliminary design phase [and] preparation of preliminary cost estimate."
16	2/7/2000	Letter from Greenberg to Owen.
17	5/18/2001	Town's request for qualifications, architectural design services, advertised in Registers of 5/30/01 and 6/6/01, including Appendix A.

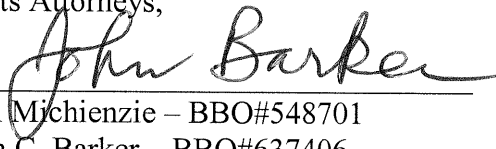
18		6/21/2001	Gannett Fleming's statement of qualifications for subject job [GF719-790].
19	*	1/30/2002	Letter from Gannett Fleming to Town (Owen) re fees [GF420-425].
20		Undated	Blank interview questionnaire used by Gannett Fleming for DPW personnel [GF535-540, GF713-718].
21	*	Undated	Documents concerning subcontractors for the job [GF549-563, GF595-607, GF674-676, GF687-690].
22	*	7/1/2003	Howe report [GF195-204].
23	*	8/11/2005	Affidavit of William Owen.
24		Undated	Summary of scope of services for subject job [GF564], and initial scope of services with cover letter [GF420-425].
25	*	3/7/2002	Contracts between Gannett Fleming and Town of Falmouth re subject job, and 3/7/02 cover letter [GF634].
26	*	1/11/2002	Letter from Town (Owen) to Gannett Fleming (Haire) [GF243].
27		3/7/2002	Cover letter and summary of 4/7/02 contract between Gannett Fleming and Town of Falmouth [GF614-615, GF636].
28		2/03 and 2/04	Plaintiff-Greenberg's copyright registrations [GF505-508].
29		Undated	Greenberg's plans with Gannett's plans [Exhibit 3 and 4 to Greenberg Depo.].
30		Undated	Drawings C-104 and A-101, architectural plans for DPW job, with shading for different designs; attached to Alberti affidavit of 2/16/2006.
31		11/9/1993	Town of Falmouth request for proposals from William Owen [Exhibit 22 to Owen Depo.].
32	*	2/12/2002	Letter from Town counsel Duffy, to plaintiff's counsel, Russell [GF514-515].
33		4/1/2003	Letter from the Town (Bill Owen) to Gannett (Don Nicholas) [GF509].
34		Many	Cost estimates throughout the subject job from Gannett, to the Town [GF187-188, 236-243, 393, 404-409, 437-445, 447-496, 648].
35		Many	Gannett's invoices to the Town on the subject job [GF126-138, 794-796] and amendment No. 1 [GF665].
36	*	9/12/2002	Meeting notes re 9/12/02 meeting between Gannett and DPW.
37	*	9/12/2002	Letter from Town counsel Frank Duffy, to plaintiff's counsel, responding to plaintiff's counsel's 9/1/01 letter.
38	*	2/13/2004	Memo from Falmouth (Owen) to Town administrator Whritenour and Board of Selectmen.
39	*	8/11/2004	Letter from Town counsel Frank Duffy, to Gannett Fleming, with draft complaint from plaintiff.
40	*	8/19/2005	Plaintiff's answers to Gannett Fleming's interrogatories.

41	*	10/31/2005	Town of Falmouth's responses to plaintiff's first interrogatories.
42		1966	Original architectural plan for subject building(s).
43		Many	Gannett Fleming plans [including, but not limited to, GF024-26, 021, 027, 036, 034, 029, 016, 018, 019, 020, 033, 032, 028, 017, 031, 030, 037, 078-83, 084-87, 069-70, 071-75, 543, 022-23].
44	*	8/11/2005	Affidavit of Heather Harper.
45	*	5/17/2001	DPW Maintenance Facility addition, funding memo, from Owen to Harper.
46	*	Many	Letters from plaintiff's counsel, to Town counsel, including letters of 6/7/02, 8/6/02, 5/22/03, 3/15/04.
47	*	Many	Notes, drawings, and plans re subject site.
48		12/6/1993	Greenberg's initial proposal for preliminary plans [GF579-591].
49		11/9/1993	Advertisement in Register for preliminary job [Exhibit 3 to Owen Depo.].
50		8/10/2001	Letter from Town (Harper) to plaintiff Greenberg [Exhibit 19 from Owen Depo.].
51		4/2002	Gannett Fleming's Project Execution Plan for Falmouth job [GF114-125].
52		4/17/2002	Gannett Fleming's notes re plans and interviews [GF095-113].
53		Undated	Optional plans for front of building [Exhibit 23 to Alberti Depo.].
54		3/31/2003	Cover fax and marked up drawing for front of building [GF074-075, Exhibit 27 to Alberti Depo.].
55	*	6/18/2001	Demand letter from plaintiff Greenberg's counsel.

* An asterisk indicates an exhibit that Gannet may introduce.

Gannet reserves its right to introduce any exhibit listed by another party hereto.

Gannett Fleming Engineers and Architects, PC ,
By its Attorneys,



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Dated: May 19, 2006